

#1



#1A



#1B



#2



#2A



#1B



#3



#4



#4A



#5



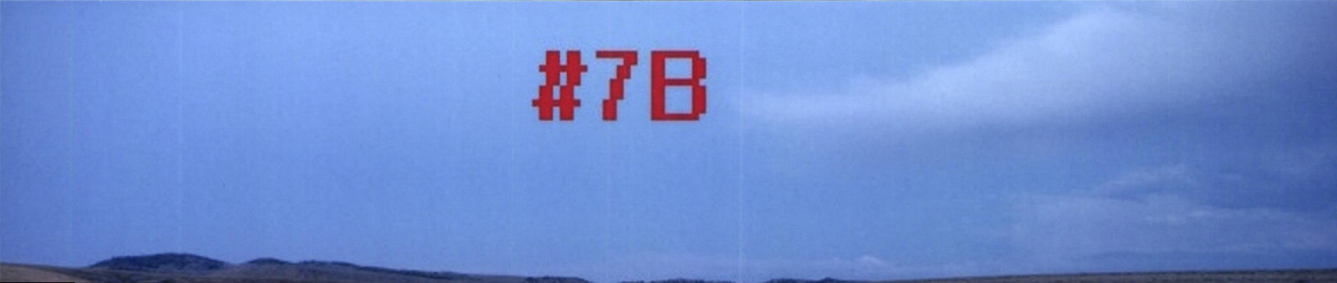
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#7A



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#7B





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VIDEO included

with

Paper copy

VIDEO included

with

Paper copy



Montana Fish, Wildlife & Parks

DECISION NOTICE

For Draft Environmental Assessment for Proposed Mineral Rights Acquisition: Spotted Dog Wildlife Management Area

Montana Fish, Wildlife & Parks
Region 2
3201 Spurgin Road, Missoula MT 59804
406-542-5500

September 27, 2012

DESCRIPTION OF PROPOSED ACTION

Montana Fish, Wildlife and Parks (FWP) proposes to purchase from the Pauly Family, the mineral rights that are held by the Pauly Family on 14,149 acres within FWP's recently acquired 37,877-acre¹ Spotted Dog Wildlife Management Area (WMA). The WMA is located west of the Continental Divide in Powell County and northeast of Deer Lodge and is part of the Upper Clark Fork River watershed. The Pauly homestead is within the WMA and owned by FWP.

In the 2010 acquisition from the Rock Creek Cattle Ranch, FWP received nearly all the mineral rights to 10,408 acres and 50% of the mineral rights to 14,149 acres within its new WMA (see Figure 1 in the environmental assessment for the mineral rights ownership map). The other 50% interest in the mineral rights to the 14,149 acres is owned by the Pauly family, and that 50% is now proposed for purchase by FWP. DNRC owns the oil, gas, and coal rights to 2,419 acres within the family's subsurface interest and 640 acres under FWP fee title portion of the WMA. The federal government retained the subsurface rights to the remaining 5,307 acres. Owners of mineral rights retain the right to enter the property and remove the mineral resource, regardless of surface impacts, at any future time.

The objectives for the Spotted Dog land acquisition included:

- Permanently protect fish & wildlife resources;
- Enhance critical winter habitat for elk, mule deer, and antelope;
- Maintain migratory patterns to and from the National Forest for a regionally significant elk herd;

¹ For Spotted Dog WMA, FWP has fee-title to 27,616.35 acres and leases 10,260.91 acres of intermingled Montana DNRC lands.

- Provide lasting public access to previously inaccessible lands;
- Maintain landscape connectivity between the Blackfoot and Clark Fork watersheds;
- Replace lost and injured natural resources that were the subject of *Montana v. ARCO* (<https://doj.mt.gov/wp-content/uploads/2011/06/settlementagreement01.pdf>).

The affected acres (areas for which the mineral rights would be acquired) are in Powell County and encompass the eastern half of the WMA, which is a mix of native grasslands and conifer forest. This portion of the WMA is interspersed with DNRC and Forest Service owned lands.

Township & Range of the affected acres:

- T8N, R9W: All of Sections 1 and 2
- T9N, R7W: All of Sections 7, 18, 19, 21, 29, 31, 33, and 35
Portions of Sections 20, 27, and 30
- T9N, R8W: All of Sections 1, 11, 13, 14, 23, 24, 25, and 36
Portions of Sections 2, 22, 26, and 27
- T9N, R9W: All of Sections 35
- T10N, R8W: Portion of Section 35

ALTERNATIVE TO THE PROPOSED ACTION

No Action: FWP would not purchase the Pauly mineral rights under Spotted Dog WMA. Under the No Action Alternative, FWP would not purchase the mineral rights owned by the Pauly family under a portion of Spotted Dog WMA. The family would likely continue to consider other selling options and potential buyers for their interests. The possibility would exist that mineral exploration and extraction could be developed in the future by the Paulys or another party, which could jeopardize existing wildlife, fisheries, and recreation resource values.

PUBLIC PROCESS

A Draft Environmental Assessment (EA) was completed by FWP for the proposed Mineral Rights Acquisition for Spotted Dog WMA and released for public comment on July 5, 2012; it was available through August 3, 2012.

FWP mailed 67 copies of the EA, and emailed approximately 42 notifications of the EA's availability, to adjacent landowners and interested individuals, groups and non-FWP agencies. The EA was available for public review and comment on FWP's web site (<http://fwp.mt.gov/>, "Public Notices") beginning July 5 through August 3. (The direct web link for the EA is http://fwp.mt.gov/news/publicNotices/environmentalAssessments/acquisitionsTradesAndLeases/pn_0114.html.)

Legal notices of the proposal and Draft EA availability were published in the following newspapers (dates): *Anaconda Leader* (July 6, 13), *Independent Record* (Helena; July 5, 12), *Missoulian* (July 5, 12), *Montana Standard* (Butte; July 5, 12), and *Silver State Post* (Deer

Lodge; July 11, 18). FWP issued a statewide news release regarding this proposal, and posted it on FWP's web site (<http://fwp.mt.gov/>, "News"), beginning July 11, 2012.

The deadline for FWP to receive comments was at 5:00 p.m. on August 3, 2012.

SUMMARY OF PUBLIC COMMENT

FWP received 9 emailed or phoned comments (Appendix A), representing 10 people (1 each from Billings, Butte, Deer Lodge, Helena, Missoula, and Plains; 2 from Townsend; and 1 unknown). Six of the 9 comments (representing 6 people) specifically supported the mineral rights acquisition. One of the 9 comments (representing 1 person) did not specifically support or oppose the acquisition but stated, "This makes sense to me." Two comments (representing 3 people) opposed the acquisition.

Following are specific comments and questions raised by the public and FWP's responses.

Comment. You might want to think about acquiring the mineral rights and then trading the mineral rights to the State of Montana (school trust lands). The Department could condition the trade on a no surface rights provision. Such a trade could expand the area of the WMA, block up the minerals for the State of Montana school trust and with a "no surface disturbance" clause protect the value of the WMA. It would also mean that the Department would not have to deal with mineral issues in the future.

FWP Response. *The potential for developing economically feasible minerals is minimal on most of the property, so a land exchange probably would not be proposed by DNRC or FWP based on minerals alone. That said, if that potential were to change it is something we may consider. If this currently proposed mineral acquisition is approved, FWP will hold all the minerals except those held by DNRC so the surface resource values will be protected under FWP ownership.*

It should be noted that DNRC is "managing the surface and mineral resources . . . of state trust lands to produce revenue for the benefit of Montana's public schools and other endowed institutions" (ARM 36.1.101(5)(b)(iv)). FWP's mission includes providing "for the stewardship of the fish, wildlife, parks, and recreational resources of Montana, while contributing to the quality of life for present and future generations." Therefore, producing direct² revenue from FWP-owned lands is not a priority and could conflict with FWP's mandates. FWP does work with DNRC to require "no surface occupancy" on those lands owned by FWP where FWP does not hold the mineral rights and mineral (generally oil and gas) are being utilized.

² Relative to indirect revenue, the US Fish & Wildlife Service's newly released 12th national survey estimated that residents and nonresidents spent \$1.4 billion on wildlife-related activities (fishing, hunting, wildlife watching) in Montana in 2011 (2011 National Survey of Fishing, Hunting and Wildlife-Related Recreation; National Overview, August 2012, Preliminary Findings. <http://onlinepressroom.net/fws/> accessed 26 Sep 2012).

Comment. FWP is going into things that don't pertain to FWP. Ultimately you're making more wilderness, which we don't need. We need the tax dollars to stay in the county/s.

FWP Response. We appreciate your point of view.

Comment. Public money and actions are better spent on these sorts of issues [weed control, road repair, safer docks] than purchasing mineral rights.

FWP Response. We appreciate your point of view.

Comment. We have asked FWP for years to take care of the carp in Canyon Ferry Reservoir (to no avail).

FWP Response. This comment is beyond the scope of this project, but it will be forwarded to the FWP fisheries biologist (Eric Roberts, Region 4, phone 406-495-3272 in Helena) for Canyon Ferry Reservoir.

Question. How much will be paid?

FWP Response. The price for the acquisition of the mineral rights would be \$70,745 (Draft EA, Sec. 2.1, pg. 7).

Question. Where will the funds be coming from?

FWP Response. Funding for the proposed mineral rights acquisition would come from FWP's Habitat Montana Program (Draft EA, Sec. 1.4, pg. 7).

DECISION

Based upon the Environmental Assessment and the applicable laws, regulations, and policies, I have determined that the proposed action will not have measureable negative effects on the human and physical environments associated with this project. No concerns were raised that would bring the environmental analysis into question. Therefore, I conclude the EA is the appropriate level of analysis and the preparation of an Environmental Impact Statement is unnecessary.

The acquisition of mineral rights would consolidate the surface and subsurface estates, which many in the public already take for granted. By acquiring subsurface rights, FWP seeks to protect and conserve the surface as wildlife habitat and a recreational resource, and limit any future surface removal by another party. Failure to acquire these rights would leave the Spotted Dog WMA and FWP's investment potentially vulnerable to the independent objectives and direction of the holder of the mineral rights.

Therefore, I chose the proposed action alternative in the EA. By notification of this Decision Notice, the draft EA is hereby made the final EA. The draft EA with Decision Notice may be viewed at or obtained from FWP at the address on page 1. The EA is still available for review on FWP's web site (<http://fwp.mt.gov/>) under "Public Notices" (enter "habitat enhancement" in Search Public Notices).

In consideration of these facts, I am pleased to recommend to the Fish, Wildlife & Parks Commission that it approve the proposed acquisition of the Spotted Dog WMA mineral rights.



Mack Long, Regional Supervisor
Region 2 FWP

9/27/12

Date

APPENDIX A. All comments recieved by FWP on the proposed mineral rights acquisition for Spotted Dog WMA. Comments received via email (E) and phone (Ph).

Com- menter #	Via	Para- graph	Comment
1	E	1	I am in favor of the Department purchasing the mineral rights. The cost is relatively low compared to the disruption that could be caused if mineral exploration or development occurred.
		2	It should be recognized that mineral owners have the right to use part of the surface for exploration and development and surface rights are secondary to those mineral rights.
		3	You might want to think about acquiring the mineral rights and then trading the mineral rights to the State of Montana (school trust lands). The Department could condition the trade on a no surface rights provision.
		4	Such a trade could expand the area of the WMA, block up the minerals for the State of Montana school trust and with a no surface disturbance clause protect the value of the WMA. It would also mean that the Department would not have to deal with mineral issues in the future.
		5	I appreciate the Department's work on this issue.
2	E		I fully support MT FWP's efforts to acquire the mineral rights to Spotted Dog WMA.
3	E	1	Considering the fear is "low to medium" and "moderate," I would recommend you say no to spending \$70,745.
		2	The words you use are "likely," "could contribute," "may be." Sounds to me you really don't have an issue.
		3	Spend it wisely, please, elsewhere
4	Ph	1	We [wife & husband] feel that FWP does not need to be buying mineral rights. FWP is going into things that don't pertain to FWP.
		2	We're opposed to this acquisition.
		3	Ultimately you're making more wilderness, which we don't need.
		4	We need the tax dollars to stay in the county/s.
		5	We often see thistles, etc. along the roads and wonder why isn't something being done about the weeds?
		6	We have asked FWP for years to take care of the carp in Canyon Ferry Reservoir (to no avail).
		7	And we have asked for the roads around Canyon Ferry (to the fishing or public sites) to be fixed (potholes and wash-boarding). [At this point the FWP person taking these comments mentioned that she's in Region 2, Missoula, and not familiar with this other area--as to which of these sites might be FWP's vs. another agency/s'. The commenter then said that the road to the Silos site was in good condition.]
		8	The dock at Nelson Reservoir is not safe.
		9	Public money is better spent on these sorts of issues [lines 5-8, above] than purchasing mineral rights.
		10	FWP needs to be a better steward of what it already has.
5	E		I fully support the proposal to acquire mineral rights under the Spotted Dog Wildlife Management Area. Acquisition will ensure that no future mineral development will jeopardize the values for which the land was originally purchased to protect.
6	E		Yes!!!! Please purchase the mineral rights to this wonderful area. this wold be a great use of public funds to preserve Montana for future generations. Yes!!!! Purchase the mineral rights
7	E		A good thing to do!
8	E	1	I just read the announcement regarding purchasing mineral rights to the Spotted Dog property from the Pauly family. While this makes sense to me, I have a couple of questions.
		2	About how much is the price that will be paid?
		3	Where will the funds be coming from?
9	Ph	1	I've hunted, fished and hiked in Spotted Dog WMA.
		2	It would be highly inappropriate for mineral development to occur on this land.
		3	I'm strongly in favor of FWP purchasing the mineral rights for this WMA.
		4	In light of the fracking going on elsewhere in MT, something like fracking on the WMA would ruin it.



Brian Schweitzer, Governor
Richard H. Opper, Director

P.O. Box 200901 • Helena, MT 59620-0901 • (406) 444-2544 • www.deq.mt.gov

September 28, 2012

Dear Reader:

On April 17, 2012, Shumaker Trucking & Excavating Contractors, Inc., (Shumaker) filed an application for an amendment to their operating permit (00170) with the Department of Environmental Quality under the Metal Mine Reclamation Act (MMRA). The amendment would add a shonkinite quarry site (Chinook Quarry) that Shumaker currently operates under a Small Miner Exclusion Statement (SMES). The crushed shonkinite is used for aggregate and riprap.

The quarry is located approximately 14 miles southeast of Chinook, MT on private property, in Section 27, Township 13 North, Range 19 East, Blaine County.

The amendment would cover a total of 160 acres. About 15 to 25 acres would be disturbed over the next five years, with about 53 acres to be disturbed over the life of mine, which is estimated to be about 50 years. Ground disturbance would range up to approximately 50 feet in depth. Shumaker would use trucks, dozers, loaders and excavators to remove the rock. Blasting would be required. A portable processing plant would be used, as well as crushers, and a pugmill. An asphalt plant would also be set up on site.

Shumaker must obtain an amendment to add the site to their existing operating permit as the site cannot stay under the five acre disturbed and unreclaimed limit required under the Small Miner Exclusion Statement, under which the site is currently being mined. Mining, screening, or crushing operations would normally take place during daylight hours from 6 AM to 7 PM Monday through Saturday.

This Draft CEA evaluated the potential impacts from this proposed amendment and provided for a public comment period. No comments were received. The agency has decided to approve the amendment with agency modification. The modification was proposed to minimize impacts of the highwall. The amendment stipulation states: The operator must grade the unconsolidated materials between the pillars into the pit at closure to the extent practicable.

Copies of the Draft CEA can be obtained by writing DEQ, Environmental Management Bureau, PO Box 200901, Helena, MT 59620, c/o Herb Rolfes, or calling (406) 444-3841; or sending email addressed to hrolfes@mt.gov. The Draft CEA will also be posted on the DEQ web page: <http://www.deq.mt.gov/hardrock/default.mcp.x>.

Warren D. McCullough
Warren D. McCullough, Chief
Environmental Management Bureau

9/28/12
Date

File: 00179.353
EMB\OP\OP_Revisions&Amendments\Shumaker Trucking & Excavating 00179\Amendment 001\Final EA Reader Cover Letter

Western Energy Company's

Rosebud Coal Mine Area F

Environmental Impact Statement

Scoping Newsletter 1
October 2012



Dear Interested Citizen,

You are invited to participate in the Montana Department of Environmental Quality's (DEQ) environmental review process for Western Energy Company's (Western Energy) proposed Area F expansion of the Rosebud Coal Mine. Approval of the surface mine permit application for Area F would result in an expansion of the Rosebud Mine operation west of Colstrip, Montana. The proposed Area F permit area is owned or controlled by Western Energy and encompasses approximately 6,746 acres. It would add coal reserves to the existing Rosebud Mine and extend mine life by an estimated 19 years. DEQ deemed Western Energy's surface mine permit application complete on August 1, 2012 and is now preparing an environmental impact statement (EIS). The EIS is being prepared to meet the requirements of the Montana Environmental Policy Act (MEPA); it will help DEQ managers determine whether Western Energy's mine permit application for Area F should be approved or not.

Under MEPA, the first phase in preparing an EIS is to conduct "scoping." The purpose of scoping is to identify the environmental issues associated with the proposed project. An interdisciplinary team of technical experts is currently working to determine the scope of the analysis to be contained in the EIS. DEQ is asking for your assistance with this process. Please send your thoughts, ideas, and concerns regarding this proposed mine

expansion and the issues that should be analyzed in the EIS to DEQ by November 5, 2012.

DEQ is hosting two open houses to provide you with information on the proposed project and an opportunity to submit written scoping comments directly to DEQ personnel. The open houses will take place on Tuesday, October 16th at the Isabel Bills Community Center (Multipurpose Room), 520 Poplar Drive, in Colstrip. The first open house will be from 2:30 p.m. until 4:30 p.m., and the second will be from 6:30 p.m. until 8:30 p.m. At the beginning of each open house, Western Energy representatives will present a brief overview of the proposed project. We encourage you to attend one of the open houses and to share your scoping comments with DEQ.

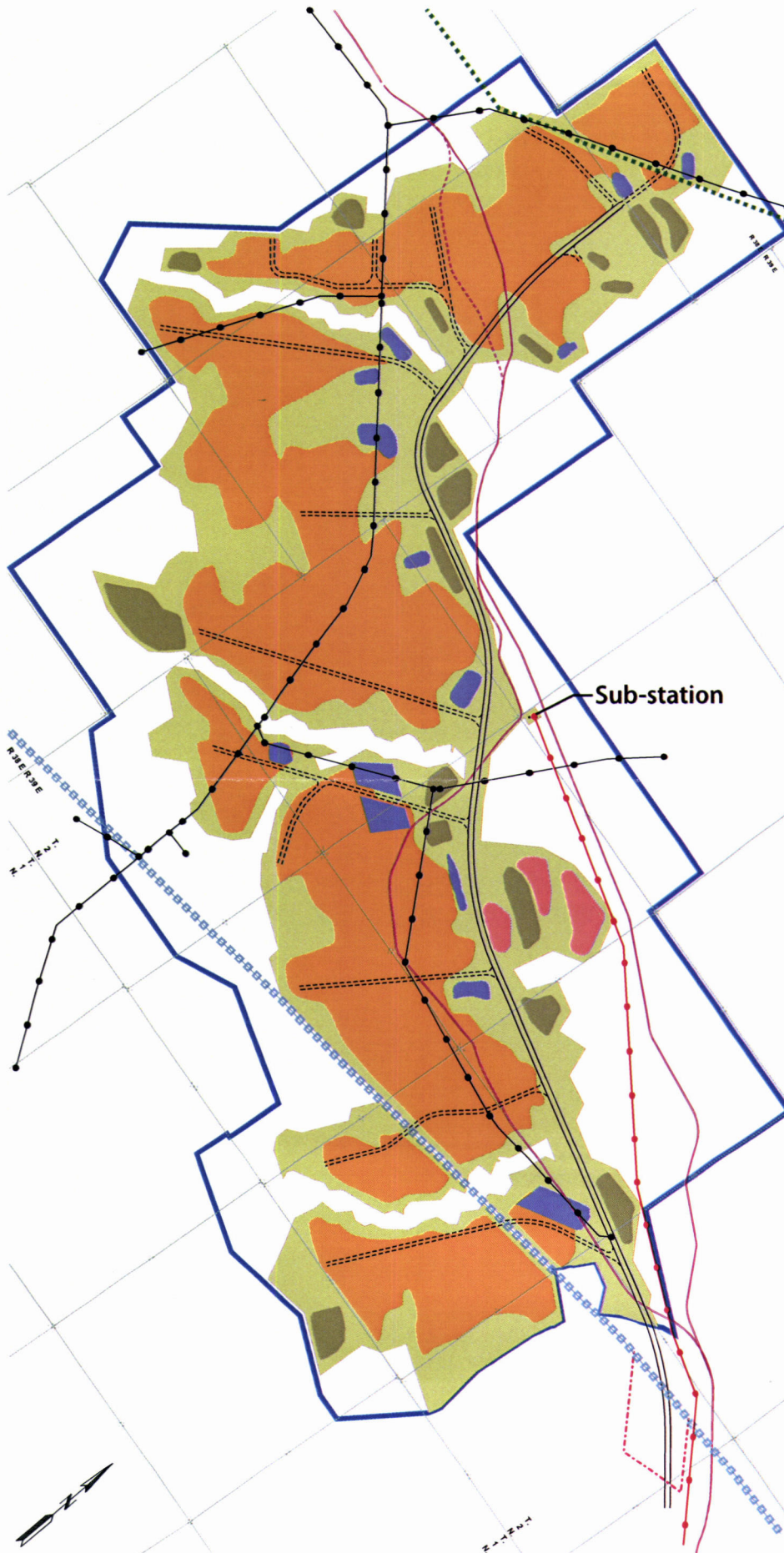
Sincerely,

A handwritten signature in black ink that reads "Greg Hallsten". The signature is written in a cursive, flowing style.

Greg Hallsten, Environmental Science Specialist
Montana Department of Environmental Quality

Western Energy Company's

Rosebud Coal Mine Area F



- Permit Boundary
- Life of Mine Disturbance Boundary
- Haul Road
- Haul Road Ramp
- County Road
- County Road Realignment
- Overhead Power Line (230 kv)
- Overhead Power Line (7.2 kv)
- Proposed Overhead Powerline (115 kv)
- Proposed Shoe Fly
- Buried Gas Line
- Pit
- Topsoil Stock Pile Location
- Overburden Stock Pile Location
- Approximate Scoria Pit Location
- Section Line

Project Location

The proposed mine area is located in Rosebud and Treasure counties, approximately 12 miles west of Colstrip and lies generally north of the Little Wolf Mountains. The proposed mine area is owned by State, federal and private entities.

Current land uses include grazing land, pastureland, cropland, and wildlife habitat. Tributaries of Horse Creek and West Fork Armells Creek, including Black Hank Creek, Donley Creek, Robbie Creek, and McClure Creek, all of which lie within the drainage of the Yellowstone River, drain the proposed mine area. The ridge system that divides the Horse Creek and West Fork Armells Creek drainages lies in the western portion of the proposed mine area.

Project Description

Western Energy utilizes an area strip mining method at the Rosebud Mine to extract coal. In advance of each mining pass, topsoil, subsoil, and tree soil would be removed from the area and stockpiled for use later during reclamation. Next, the overburden (sedimentary rock material covering the coal seams) would be drilled and blasted. After leveling the blasted material with a dozer to create a stable work surface, a dragline would then be used to strip the overburden from

the mine pass. Overburden would be cast into the mined-out pit created by the preceding pass.

After the dragline exposes the coal seam in each pass, the coal would be drilled and blasted. A loading shovel, front-end loaders, or backhoe would load blasted coal into coal haulers. The coal would be transported on an established haul road to Area C. From there, per Western Energy's contract with PPL Montana, most of the coal would be sent via the existing 4.2-mile conveyor to the Colstrip Power Station. Coal with higher sulfur content would be sent to Rosebud Power, a power generating plant 6 miles north of Colstrip.

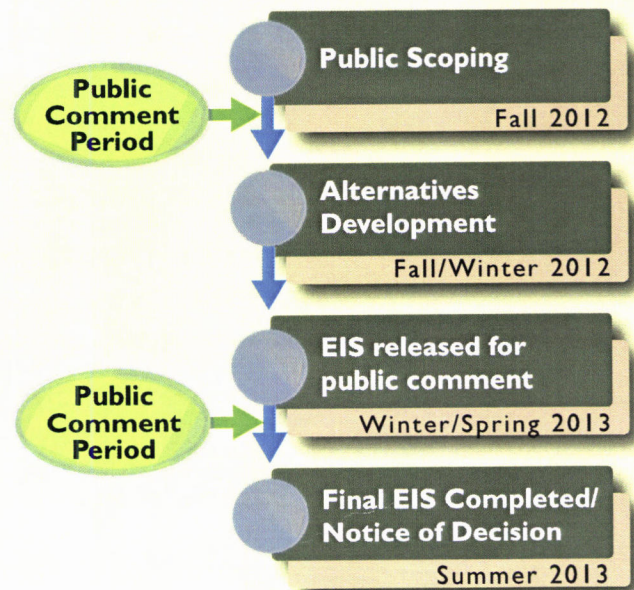
If approved, mining would commence in 2015 with completion in 2034. Reclamation would be concurrent to and following mining and would facilitate the following post-mine land uses: grazing land, pastureland, cropland, and wildlife habitat.

Additional information regarding the proposed Rosebud Mine Area F expansion, including Western Energy's application, can be found on or requested through DEQ's Coal Program website.

<http://deq.mt.gov/ea/coal.mcp>



Project Timeline



Open House Schedule

DEQ has scheduled two scoping open houses. Each will start with a brief presentation of the proposed project by Western Energy representatives:

Tuesday, October 16th
2:30pm-4:30pm
6:30pm-8:30pm

Isabel Bills Community Center
Multipurpose Room,
520 Poplar Drive
Colstrip, MT

Additional Information

Additional information regarding the proposed Rosebud Mine Area F expansion, including Western Energy's application, can be found on or requested through DEQ's Coal Program website.

<http://deq.mt.gov/ea/coal.mcpx>

How to Provide Scoping Comments

DEQ needs your input to identify issues or concerns that should be analyzed in the EIS for the proposed Area F expansion of the Rosebud Mine. You can provide comments in two ways:

1. Attend one of the scoping open houses on October 16th and provide written comments to DEQ staff there
2. Send written comments to:

Montana Department of Environmental Quality
Attn: Mr. Greg Hallsten, Director's Office
PO Box 200901
Helena, MT 59620-0901
Facsimile: 406-444-4386
E-mail: deqcoalcomments@mt.gov

Please include your address, phone number, e-mail address, or other personal identifying information in your comment. You should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time.

Please submit all comments by November 5, 2012.

For questions regarding the EIS process, please contact Greg Hallsten at 406-444-3276 or by e-mail at ghallsten@mt.gov.

|||||

5962081704 B001

Environmental Quality Council
PO Box 201704
Helena, MT 59620



PO Box 200901
Helena, MT 59620-0901



We Invite Your Comments

Western Energy Rosebud Mine Area F Expansion Environmental Impact Statement

Name <small>(Please Print)</small>	Date
Company /Organization	
Street Address	
City, State, Zip Code	
E-mail	

Comments: _____

Please continue on reverse side

[illegible]

Thank you for your comments

Please send any additional written comments to the mailing address or e-mail address below. Comments can also be hand-delivered to DEQ between the hours of 8:00 a.m. and 4:30 p.m. All comments must be received by **November 5, 2012**.

Attn: Greg Hallsten
Department of Environmental Quality
Director's Office
PO Box 200901
Helena, MT 59620-0901
email: deqcoalcomments@mt.gov



Montana Department of Transportation
PO Box 201001
Helena, MT 59620-1001

Memorandum

To: Nicole Pallister
Fiscal Programming Section Supervisor

From: Heidy Bruner, P.E.
Engineering Section Supervisor
Environmental Services Bureau

Date: October 4, 2012

Subject: Categorical Exclusion (c) Determination
HSIP 4-1(63)43
SF 119-Safety Rockvale - Laurel
Control Number: 7900 000

Environmental Services Bureau has reviewed the proposed project and concluded that it will not involve unusual circumstances as described under 23 CFR 771.117(b). As a result, the project qualifies as a Categorical Exclusion under the provisions of 23 CFR 771.117(c), part (8), which describes installation of fencing, signs, pavement markings, small passenger shelters, traffic signals, and railroad warning devices where no substantial land acquisition or traffic disruption will occur. The proposed action also qualifies as a Categorical Exclusion under the provisions of ARM 18.2.261 (Sections 75-1-103 and 75-1-201, MCA).

The proposed project would provide new high retro reflectivity pavement markings, signing, centerline rumble strips, delineation and striping improvements between Rockvale and Laurel. No additional right of way is necessary.

In accordance with the Federal Highway Administration (FHWA) letter of March 29, 1999, please notify FHWA that the proposed action is being processed in accordance with 23 CFR 771.117(c).

e-copy (w/o attach.): Stefan Streeter, P.E., Billings District Administrator
Roy Peterson, P.E., Traffic and Safety Engineer
LeRoy Wosoba, P.E., Traffic Project Engineer
Robert Stapley, Right-of-Way Bureau Chief
Suzy Price, Contract Plans Bureau Chief
Tom Martin, P.E., Environmental Services Bureau Chief
Tom Gocksch, P.E., Environmental Services Project Development Engr
Alan Woodmansey, P.E., FHWA Operations Engineer
Environmental Services Bureau File
✓ Montana Legislative Branch Environmental Quality Council (EQC)



Montana Department of
ENVIRONMENTAL QUALITY

P. O. Box 200901

Helena, MT 59620-0901

(406) 444-2544

Brian Schweitzer, Governor

Website: www.deq.mt.gov

PUBLIC NOTICE NO. MT-12-48

October 12, 2012

PURPOSE OF PUBLIC NOTICE

The purpose of this notice is to state the Department's intention to issue a wastewater discharge permit to the facility listed in this notice. This permit is issued by the Department under the authority of 75-5-402, Montana Code Annotated (MCA); the Administrative Rules of Montana (ARM) 17.30.1301 *et seq.*, Montana Pollutant Discharge Elimination System (MPDES); and Sections 402 and 303 of the Federal Clean Water Act. The Water Protection Bureau has prepared a draft permit for the facility listed below. Copies of the draft permit, statement of basis, and environmental assessment are available upon request from the Water Protection Bureau or on the Department's website www.deq.mt.gov.

APPLICANT INFORMATION

APPLICANT NAME:	Donald G. Abbey c/o Glacier Construction Partners LLC P.O. Box 10 Rollins, MT 59931
FACILITY NAME:	Abbey Main House
FACILITY LOCATION:	T25N, R20W, Section 28 Lake County
RECEIVING WATER:	Flathead Lake
PERMIT NUMBER:	MT0030651

This permit is a reissuance of a Montana Pollutant Discharge Elimination System (MPDES) permit for a discharge of non-contact cooling water from a heat pump/heat exchanger system that serves a private residence and boat house on Shelter Island. Water is pumped from Flathead Lake at a depth of about 26 feet and located about 100 feet from the southeast shore of Shelter Island. The lake water is pumped through a heat pump/heat exchanger system and is returned to Flathead Lake at a depth of about 53 feet and located about 130 feet from the southeast shore of Shelter Island. No chemicals are added to the water. The only pollutant added or removed from the use of Flathead Lake water is temperature. The parameter pH is expected to vary slightly with effluent temperature. No treatment is provided. This permit and

Statement of Basis will be submitted to the EPA for approval.

On September 21, 2000, a U.S. District Judge issued an order stating that until all necessary total maximum daily loads under Section 303(d) of the Clean Water Act are established for a particular water quality limited segment, the State is not to issue any new permits or increase permitted discharges under the MPDES program. The order was issued in the lawsuit Friends of the Wild Swan v. U.S. EPA, et al., CA 97-35-M-DWM, District of Montana, Missoula Division. The DEQ finds that the issuance of this proposed permit does not conflict with the order because the discharge to Flathead Lake is non-significant.

PUBLIC COMMENT

Public comments are invited ANYTIME PRIOR TO CLOSE OF BUSINESS November 14, 2012. Comments may be directed to the DEQ Permitting & Compliance Division, Water Protection Bureau, PO Box 200901, Helena, MT 59620. All comments received or postmarked PRIOR TO CLOSE OF BUSINESS November 14, 2012 will be considered in the formulation of final determinations to be imposed on the permits. If you wish to comment electronically, you may e-mail David Dunbar or Barb Sharpe at WPBPublicNotices@mt.gov.

During the public comment period provided by the notice, the Department will accept requests for a public hearing. A request for a public hearing must be in writing and must state the nature of the issue proposed to be raised in the hearing (ARM 17.30.1373).

The Department will respond to all substantive comments and issue a final decision within sixty days of this notice or as soon as possible thereafter. Additional information may be obtained upon request by calling (406) 444-3080 or by writing to the aforementioned address. The complete administrative record, including permit application and other pertinent information, is maintained at the Water Protection Bureau office in Helena and is available for review during business hours.

PUBLIC NOTICE NO. MT-12-48

October 12, 2012



Montana Department of
ENVIRONMENTAL QUALITY

Brian Schweitzer, Governor

P. O. Box 200901

Helena, MT 59620-0901

(406) 444-2544

Website: www.deq.mt.gov

PUBLIC NOTICE NO. MT-12-49
October 15, 2012

PURPOSE OF PUBLIC NOTICE

The purpose of this notice is to state the Department's intention to issue a wastewater discharge permit to the facility listed in this notice. This permit is issued by the Department under the authority of 75-5-402, Montana Code Annotated (MCA); the Administrative Rules of Montana (ARM) 17.30.1301 *et seq.*, Montana Pollutant Discharge Elimination System (MPDES); and Sections 402 and 303 of the Federal Clean Water Act. The Water Protection Bureau has prepared a draft permit for the facility listed below. Copies of the draft permit, fact sheet, and environmental assessment are available upon request from the Water Protection Bureau or on the Department's website www.deq.mt.gov.

APPLICANT INFORMATION

PERMIT/CATEGORY: Multi-Sector General Permit for Storm Water Discharges
Associated with Industrial Activity

GEOGRAPHIC REGION: Statewide

FACILITIES: Various Industrial Facilities

RECEIVING WATERS: State Waters

PERMIT NUMBER: MTR000000

This Industrial Storm Water Multi-Sector General Permit (MSGP) regulates the discharge of storm water from industrial activities into state waters in accordance with federal and state storm water discharge permitting requirements. In addition to "storm water discharge associated with industrial activity" (as defined in ARM 17.30.1102(29)), this MPDES permit number MTR000000 also incorporates "storm water discharge associated with mining and oil and gas activity" (as defined in ARM 17.30.1102(30)), which was previously regulated under MPDES permit number MTR300000 (MTR300000 expires December 31, 2012). Storm water discharges associated with industrial activities contain potential pollutants that may cause impairment of state waters. To reduce the levels of potential pollutants in the discharge, permittees are required to comply with various narrative effluent limitations, and to develop and implement a Storm Water Pollution Prevention Plan (SWPPP). The SWPPP addresses various site characteristics, potential pollutant sources, and consequent control measures and Best Management Practices (BMPs) necessary to minimize or

prevent pollutant discharges to state waters.

On September 21, 2000, a U.S. District Judge issued an order stating that until all necessary total maximum daily loads (TMDLs) under Section 303(d) of the Clean Water Act are established for a particular water quality limited segment (WQLS), the State is not to issue any new permits or increase permitted discharges under the MPDES program. The order was issued in the lawsuit Friends of the Wild Swan v. U.S. EPA. et al., CV 97-35-M-DWM, District of Montana, Missoula Division. The DEQ finds that the issuance of this proposed permit does not conflict with the order, because: 1) the permit does not authorize the discharge of any new or increased pollutant load; 2) facilities are required by state and federal regulation to obtain authorization for these discharges under the National Pollutant Discharge Elimination System (NPDES) program or a delegated state program.

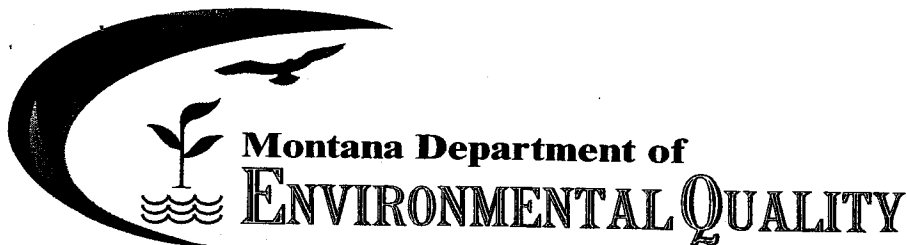
PUBLIC COMMENT

Public comments are invited ANYTIME PRIOR TO CLOSE OF BUSINESS November 14, 2012. Comments may be directed to the DEQ Permitting & Compliance Division, Water Protection Bureau, PO Box 200901, Helena, MT 59620. All comments received or postmarked PRIOR TO CLOSE OF BUSINESS November 14, 2012 will be considered in the formulation of final determinations to be imposed on the permits. If you wish to comment electronically, you may e-mail David Dunbar or Barb Sharpe at WPBPublicNotices@mt.gov.

During the public comment period provided by the notice, the Department will accept requests for a public hearing. A request for a public hearing must be in writing and must state the nature of the issue proposed to be raised in the hearing (ARM 17.30.1373).

The Department will respond to all substantive comments and issue a final decision within sixty days of this notice or as soon as possible thereafter. Additional information may be obtained upon request by calling (406) 444-3080 or by writing to the aforementioned address. The complete administrative record, including permit application and other pertinent information, is maintained at the Water Protection Bureau office in Helena and is available for review during business hours.

PUBLIC NOTICE NO. MT-12-49
October 15, 2012



Brian Schweitzer, Governor
Richard H. Opper, Director

P.O. Box 200901 • Helena, MT 59620-0901 • (406) 444-2544 • www.deq.mt.gov

October 18, 2012

Dear Reader:

Enclosed for your review and comment is a Draft Checklist Environmental Assessment (CEA) for an amendment to the E. S. Stone and Structure, Inc., (E. S. Stone) operating permit (00163) located near Harlowton, MT. E. S. Stone, located at PO Box 28, Ryegate, MT 59074 filed an amendment on July 19, 2012 to their Operating Permit from the Montana Department of Environmental Quality (DEQ), Environmental Management Bureau in Helena. The amendment would add one site for a total of 160 acres on private land. Fifteen sites have been permitted by E. S. Stone to date, with three of the sites receiving full bond release. Currently, the total permitted acreage is 2,654 acres. E. S. Stone uses dozers, excavators or backhoes to pick up rock and boulders for landscaping and possible masonry purposes. The amendment would be on private land in the northwest quarter of Section 2, Township 7 North, Range 15 East. The site is about two miles south of Harlowton, MT. E. S. Stone would post a bond to ensure reclamation is completed.

This Draft CEA evaluates the potential impacts from this proposed amendment. The DEQ must decide whether to approve the permit as proposed, deny the request for an operating permit, or approve the operating permit with modifications.

The Draft CEA addresses issues and concerns raised during public involvement and from agency scoping. The agency has decided to approve the amendment as proposed. This is not a final decision. This conclusion may change based on comments received from the public on this Draft CEA, new information, or new analysis that may be needed in preparing the Final CEA.

Copies of the Draft CEA can be obtained by writing DEQ, Environmental Management Bureau, PO Box 200901, Helena, MT 59620, c/o Herb Rolfes, or calling (406) 444-3841; or sending email addressed to hrolfes@mt.gov. The Draft CEA will also be posted on the DEQ web page: www.deq.mt.gov. Public comments concerning the adequacy and accuracy of the Draft CEA will be accepted until November 19, 2012.

Since the Final EA may only contain public comments and responses, and a list of changes to the Draft CEA, please keep this Draft CEA for future reference.

Warren D. McCullough
Warren D. McCullough, Chief
Environmental Management Bureau

10/18/12
Date

File: 00176.353

EMB\OP_Amendment&Revisions\ESStone\Amendment004\EA Cover Letter

CHECKLIST ENVIRONMENTAL ASSESSMENT

COMPANY NAME: E.S. Stone and Structure, Inc., P. O. Box 28, Ryegate, MT 59074

PROJECT: Building stone quarry and rock collecting sites.

PERMIT OR LICENSE: Amendment Application 004 to Operating Permit 00163

LOCATION: Section 2 (NW1/4), Township 7 North, Range 15 East (Site 16) in Wheatland County, about two miles south of Harlowton, MT (see location map).

COUNTY: Wheatland

PROPERTY OWNERSHIP: ☐ Federal ☐ State ☒ Private

TYPE AND PURPOSE OF ACTION: E.S. Stone and Structure, Inc. (E.S. Stone) currently quarries and collects building stone on 12 sites under Operating Permit 00163 in Golden Valley, Wheatland, and Cascade counties.

Operating Plan: E.S. Stone filed an application on July 19, 2012 for an amendment to Operating Permit 00163 from the Montana Department of Environmental Quality (DEQ), Environmental Management Bureau in Helena, MT. E.S. Stone has lease agreements with the landowner on which the site in this amendment would be located. Rock would be removed for the purpose of landscaping and masonry. The amendment area would consist of a total of about 160 acres on private land of which about 130 acres would be disturbed.

E.S. Stone quarries landscaping and masonry rock found along outcrops, hilltops, and other areas. Rock is quarried from the surface to a depth up to 16 feet deep. Soil and overburden are stripped by dozers from the quarry and stockpiled for use in reclamation. Larger rock slabs are removed using tracked excavators or backhoes. Smaller rocks are picked up with a backhoe or by hand. The excavated stone is sorted and either placed on pallets for shipment to market, taken to a sawing shop, or processed on site into block and brick sized stone.

Reclamation Plan: As each quarry or portion of a quarry is closed, the waste stone is backfilled into the pits or pushed into low piles if the quarrying does not create pits and depressions. Previously saved soil is spread over the recontoured ground and the areas are then seeded with a native grass seed mix on areas of native range, or returned to agricultural production on areas that were previously farmed. Temporary sheds housing rock splitters would be removed at closure of operations. Soil in the staging area would be scarified before seeding.

The proposed amendment has been reviewed for compliance under a Supplemental Programmatic Environmental Assessment (SPEA) for a General Quarry Operating Permit published by the DEQ in February 2004. The site meets all the requirements under the SPEA except that the disturbance cannot be kept below five acres disturbed and unreclaimed at any one time. E.S. Stone would have a pallet and splitting yard. Up to 100 acres could be disturbed at any one time on the proposed site.

E.S. Stone has 2,654 acres of permit area on 12 sites currently approved under Operating Permit 00163, of which a total of 500 acres can be disturbed at any one time. A total of 1,500 acres could be disturbed over the life of mining. This permit amendment would add 160 acres to the permit area, for a total of 2,814 acres. The new site 16* would add 130 acres to the permitted disturbance total increasing the total permitted disturbance to

1,630 acres. E. S. Stone would be able to disturb up to 600 acres at any one time.

Operating Permit 00163	Current Conditions	Amendment 004	Total
Permit Area	2,654 acres	160 acres	2,814 acres
Permitted Disturbance	1,500 acres	130 acres	1,630 acres
Maximum Acres Disturbed at Any One time	500 acres	100 acres	600 acres
Bonded Acres	251 acres	351 acres	351 acres

*Three of the 15 permitted sites have been reclaimed and have had full bond released.

N = Not present or No Impact will occur.

Y = Impacts may occur (explain under Potential Impacts).

N/A = Not Applicable

IMPACTS ON THE PHYSICAL ENVIRONMENT	
RESOURCE	[Y/N] POTENTIAL IMPACT AND MITIGATION MEASURES
1. GEOLOGY AND SOIL QUALITY, STABILITY AND MOISTURE: Are soils present which are fragile, erosive, susceptible to compaction, or unstable? Are there unusual or unstable geologic features? Are there special reclamation considerations?	<p>[Y] The soils that will be impacted are predominantly Cabbart-Yawdim-Rock outcrop (44%) with slopes of 4 to 35%, and Cabbart-Delpoint loam (29%) with slopes of 2 to 8%, with minor components of Cabbart loam (14%) with slopes of 15 to 35 %, Korchea-Fairway loam (8%) with slopes of 0 to 4%, and Cabbart loam (5%) with 2 to 15% slopes.</p> <p>The Cabbart-Yawdim-Rock Outcrop typical profile has 0 to 16 inches of loam. The Cabbart-Delpoint loam typical profile has 0 to 17 inches of loam. The minor components of the Cabbart loam have typical profiles of 0 to 17 inches of loam. The Korchea-Fairway loam typical profile is 0 to 42 inches of sandy loam and 42 to 60 inches of silty-clay-loam. The soils are well drained, and the depth to groundwater is more than 80 inches (NRCS 2010). A minimum of 16 inches of soil would be spread over the disturbed ground to reestablish productive rangeland, except in the pallet site. The pallet site would be scarified.</p> <p>Concurrent reclamation would limit the amount of soil susceptible to erosion from wind or water. During periods of extreme drought, reclamation seedings may fail with some resulting loss of soil. Failed seedings would be reseeded until vegetation is successfully established. No new permanent roads would be constructed. Traffic volume and truck weight will not increase as a result of approval of the amendment. Removal of rocks from the surface is an unavoidable impact of rock product operations.</p>
2. WATER QUALITY, QUANTITY AND DISTRIBUTION: Are important surface or groundwater resources present? Is there potential for	<p>[N] The nearest source of surface water is the Musselshell River which is approximately two miles away.</p> <p>According to the Montana Bureau of Mines and Geology (Ground Water</p>

IMPACTS ON THE PHYSICAL ENVIRONMENT

<p>violation of ambient water quality standards, drinking water maximum contaminant levels, or degradation of water quality?</p>	<p>Information Center database), four wells are located in Section 2, but only one well is located in the northwest corner of the section where excavation would occur. This well appears to be misplaced and is actually in the section to the north (section 35). The depth of the well is 130 feet.</p> <p>The other wells are located in the southeast corner of Section 2. They range in depth from 205 to 300 feet. The proposed excavations are relatively shallow and should not impact groundwater.</p> <p>E.S. Stone has committed to retrieve and properly dispose of any spilled fuel or contaminated materials.</p>
<p>3. AIR QUALITY: Will pollutants or particulate be produced? Is the project influenced by air quality regulations or zones (Class I airshed)?</p>	<p>[Y] There would be dust produced by the operation due to travel on the gravel roads commonly found in the area. Landowners can require dust control as needed on their leases to the company. Concurrent reclamation would limit the potential for blowing dust from the operating area. The rock fragments left in the soils would also limit blowing dust.</p>
<p>4. VEGETATION COVER, QUANTITY AND QUALITY: Will vegetative communities be significantly impacted? Are any rare plants or cover types present?</p>	<p>[Y] The plant communities on these shallow to very shallow range sites are dominated by native grasses. The plant communities that would be impacted are common in the sedimentary plains of Montana. The site is on native range used for grazing and crops. A search of the Montana Natural Heritage Program (MNHP) database at the Montana State Library in Helena, MT found that there are no known threatened and endangered (T&E) plant species present.</p> <p>MNHP indicated that there is a species of concern. Small Dropseed is an annual plant and would reproduce from seed if soil is replaced after reclamation is completed. It would naturally be found on disturbed sites.</p> <p>Disturbance on the site would lead to more noxious weed invasion in the area, especially from the existing populations of leafy spurge. Weed control efforts would limit these impacts. The disturbed land would be reclaimed to livestock grazing and dryland farming. Loss of native species on disturbed rangeland would be an unavoidable impact of disturbance.</p>
<p>5. TERRESTRIAL, AVIAN AND AQUATIC LIFE AND HABITATS: Is there substantial use of the area by important wildlife, birds or fish?</p>	<p>[Y] The rock product area is commonly used by mule deer and antelope. They would be displaced around the human activity until reclamation is completed. There is no winter range for ungulate species or aquatic habitat in the permit area.</p>
<p>6. UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES:</p>	<p>[Y] MNHP indicated that a number of animal species of concern have either been sighted in the area or could be expected to be found in the permit boundary. These species include: the Bald eagle, Ferruginous</p>

IMPACTS ON THE PHYSICAL ENVIRONMENT

Are any federally listed threatened or endangered species or identified habitat present? Any wetlands? Species of special concern?	hawk, Northern redbelly dace, and the Greater short-horned lizard. Bald eagles are seasonal migrants through the area, but do not remain in the uplands. They are more closely associated with the Musselshell River valley. Eagles may use the outcrops as perching sites. A Bald eagle was sighted in the area in 2005. A Ferruginous hawk was sighted in the area in 2000. The Ferruginous hawk is associated with the Musselshell River and not the uplands where rock collecting activities would occur. The Northern redbelly dace has not been observed. The habitat type is stream reaches and standing water bodies. A Greater short-horned lizard was last observed in 1933. The habitat type is sandy/gravelly soils.
7. HISTORICAL AND ARCHAEOLOGICAL SITES: Are any historical, archaeological or paleontological resources present?	[N] A records search by the State Historic Preservation Office did not return any historical or archaeological sites. The proposed sites have the potential to impact cultural resources. E.S. Stone has committed to protect any resources found.
8. AESTHETICS: Is the project on a prominent topographic feature? Will it be visible from populated or scenic areas? Will there be excessive noise or light?	[Y] The proposed rock collecting site is in a rural area. Activity would be visible from nearby county roads during operations, but the disturbance created would not be readily apparent in the absence of construction equipment. Soil will be replaced after the rock has been removed, and then scarified and reseeded. The reclaimed rock collecting site would not appear as the original rangeland in the area. This is an unavoidable impact of quarrying activities.
9. DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AIR OR ENERGY: Will the project use resources that are limited in the area? Are there other activities nearby that will affect the project?	[N] This project site is isolated, and would require a minimum of energy resources.
10. IMPACTS ON OTHER ENVIRONMENTAL RESOURCES: Are there other activities nearby that will affect the project?	[N] The surrounding land use is livestock grazing and dryland farming.

IMPACTS ON THE HUMAN POPULATION

11. HUMAN HEALTH AND SAFETY: Will this project add to health and safety risks in the area?	[N]
12. INDUSTRIAL, COMMERCIAL AND AGRICULTURAL ACTIVITIES AND PRODUCTION:	[N] These operations are a source of income for area ranchers.

IMPACTS ON THE HUMAN POPULATION	
Will the project add to or alter these activities?	
13. QUANTITY AND DISTRIBUTION OF EMPLOYMENT: Will the project create, move or eliminate jobs? If so, estimated number.	[N] Stone producing operations in Wheatland County are major employers, providing work for a segment of the population that is otherwise unemployed, or underemployed.
14. LOCAL AND STATE TAX BASE AND TAX REVENUES: Will the project create or eliminate tax revenue?	[N] This project would create tax revenue.
15. DEMAND FOR GOVERNMENT SERVICES: Will substantial traffic be added to existing roads? Will other services (fire protection, police, schools, etc.) be needed?	[N] There is no anticipated need for increased government services as a result of this project.
16. LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS: Are there State, County, City, USFS, BLM, Tribal, etc. zoning or management plans in effect?	[N]
17. ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES: Are wilderness or recreational areas nearby or accessed through this tract? Is there recreational potential within the tract?	[N] There are no wilderness or major recreational areas nearby, or accessed through this site.
18. DENSITY AND DISTRIBUTION OF POPULATION AND HOUSING: Will the project add to the population and require additional housing?	[N]
19. SOCIAL STRUCTURES AND MORES: Is some disruption of native or traditional lifestyles or communities possible?	[N] The work force would be local or drawn from neighboring counties. Royalty payments made to landowners of rock picking sites help to maintain the sometimes tenuous existence of family owned farms and ranches recovering from the regional drought.
20. CULTURAL UNIQUENESS AND DIVERSITY: Will the action	[N]

IMPACTS ON THE HUMAN POPULATION	
cause a shift in some unique quality of the area?	
21. PRIVATE PROPERTY IMPACTS: Are we regulating the use of private property under a regulatory statute adopted pursuant to the police power of the state? (Property management, grants of financial assistance, and the exercise of the power of eminent domain are not within this category.) If not, no further analysis is required.	[Y]
22. PRIVATE PROPERTY IMPACTS: Does the proposed regulatory action restrict the use of the regulated person's private property? If not, no further analysis is required.	[N]
23. PRIVATE PROPERTY IMPACTS: Does the agency have legal discretion to impose or not impose the proposed restriction or discretion as to how the restriction will be imposed? If not, no further analysis is required. If so, the agency must determine if there are alternatives that would reduce, minimize or eliminate the restriction on the use of private property, and analyze such alternatives.	[N/A]
24. OTHER APPROPRIATE SOCIAL AND ECONOMIC CIRCUMSTANCES:	[N]

25. Alternatives Considered:

No Action: Deny the request for the amendment to the operating permit. No issues were identified which would require denying the amendment.

Approval: Approve the amendment as proposed.

Approval with Modification: No mitigations are proposed.

26. Public Involvement: A legal notice was published in the Harlowton *Times/Clarion* and the *Great Falls Tribune*, and a press release was issued on receipt of the application for an amendment to the operating

permit. No comments were received. A legal notice and press release will be published with release of the Draft EA.

27. Other Governmental Agencies with Jurisdiction: None

28. Magnitude and Significance of Potential Impacts: There would be no significant impacts associated with this proposal.

29. Building stone quarries and rock collecting sites are increasing throughout Montana. DEQ has prepared a SPEA on these operations. The operations that qualify must meet the following provisions:

- Any individual small quarry may maintain a working disturbance of up to five acres. Total disturbance during the life of an individual operation could exceed five acres, but concurrent reclamation would be required to keep the disturbance at any one time to five acres or less. Access roads would not be included in the disturbed total, but the operator would submit a reclamation bond for roads that do not have an approved use after quarrying. Roads approved for the land use after quarrying and access or haulage roads which are required by a local, state, or federal agency having jurisdiction over that road would not have to be bonded;
- There would be no impact to any wetland, surface or ground water;
- There would be no constructed impoundments or reservoirs used in the operation;
- There would be no potential to produce any acid or other pollutive drainage from the quarry;
- There would be no impact to threatened and endangered species; and
- There would be no impact to significant historic or archaeological features.

The site proposed by E.S. Stone meets all of these requirements except the operator cannot keep the disturbance to less than five acres disturbed and unreclaimed at any one time. Even though the site may exceed five acres disturbed and unreclaimed at any one time, there would be no other impacts other than the size of the disturbance area over those analyzed in the SPEA. This Checklist EA tiers to the 2004 SPEA and the 2010 EA for amendment 003. Reclamation would limit impacts. DEQ would bond E.S. Stone to reclaim the acres disturbed by quarrying.

Many acres could be potentially disturbed by quarry operations throughout Montana as a result of the demand for building stone. Previously, operating permits were issued to Bozeman Brick, Block, and Tile, Big Sky Masonry, and Northfork Stoneworks for sites in Wheatland County. The cumulative impacts from these operations can lead to more soil disturbance requiring reclamation, more impacts to native plant communities and increased potential for noxious weed invasion and spread, as well as economic benefits to the local economies from quarry operations.

30. Recommendation for Further Environmental Analysis:

☐ EIS ☐ More Detailed EA ☒ No Further Analysis

The DEQ has selected the Approval as the preferred alternative.

31. References:

NRCS, 2010. Custom Soil Resource Report for Wheatland County Area, Montana.

32. EA Checklist Prepared By:

Herb Rolfes, DEQ Operating Permits Section Supervisor
Patrick Plantenberg, DEQ Reclamation Specialist

33. This EA was reviewed by:
Warren McCullough, DEQ, Environmental Management Bureau, Chief

Approved By:

Warren D. McCullough

10/16/12

Signature

Date

Warren D. McCullough, Chief
Environmental Management Bureau, DEQ

File: 00163.70

OP_Revisions&Amendments\ESStone00163\Amendment004\Draft EA HRPP



2701 Prospect Avenue
PO Box 201001
Helena MT 59620-1001

October 19, 2012

Gene Kaufman, Operations Engineer
Federal Highway Administration
585 Shepard Way
Helena, MT 59601-9785

Subject: Categorical Exclusion Re-Evaluation
STPHS 292-1(6)7
2003-Safety Impvt - S Whitefish
UPN 5878000

Dear Gene Kaufman:

Environmental Services has reviewed the above proposed project's impacts and has determined that this proposed project still qualifies as a Categorical Exclusion (CE) under the provisions of 23 CFR 771.129(c). The original CE was signed June 8, 2007 and is attached. This proposed action also continues to qualify as a categorical exclusion under the provisions of ARM 18.2.261 (Sections 75-1-103 and 75-1-201, M.C.A.).

The Scope-of-Work for the proposed project has been reviewed and has not changed. As a result of this review, we have reviewed the project reports and found that in accordance with 23 CFR 771.117(a), this action will neither individually or cumulatively, have any significant environmental impacts.

In accordance with the Federal Highway Administration's concurrence letter of April 15, 1999, this notification documents that this proposed action is still properly classified as a CE under the provisions of 23 CFR 771.117(d).

If you have any questions, please phone Susan Kilcrease at 406.523.5842. She will be pleased to assist you.

Sincerely,

Heidi Bruner, P.E.
Engineering Section Supervisor
Environmental Services

Copy (w/o attach.):	Ed Toavs, P.E.	Missoula District Administrator
	Paul Ferry, P.E.	Highway Engineer
	Kent Barnes, P.E.	Bridge Engineer
	Tom S. Martin, P.E.	Environmental Services Bureau Chief
	Suzy Price	Contract Plans Bureau Chief
	Nicole Pallister	Fiscal Programming Section Supervisor
	Tom Erving	Fiscal Programming Section
	Robert Stapley	Right-of-Way Bureau Chief
	Susan Kilcrease	Environmental Services Bureau
	File	Environmental Services Bureau
	Montana Legislative Branch Environmental Quality Council (EQC)	



Montana Department of Transportation

2701 Prospect Avenue

PO Box 201001

Helena MT 59620-1001

Jim Lynch, Director

Brian Schweitzer, Governor

RECEIVED

June 5, 2007

RECEIVED

JUN 11 2007

JUN 06 2007

FHWA
MONTANA DIVISION

Michael Duman
Assistant Division Administrator
Federal Highway Administration
585 Shepard Way
Helena, MT 59601-9785

ENVIRONMENTAL

Subject: STPHS 292-1(6)7
2003-SAFETY IMPVT-S WHITEFISH
CN 5878000

This is to request approval of this proposed project as a Categorical Exclusion (CE) under the provisions of 23 CFR 771.117(d), and the Programmatic Agreement as signed by the MONTANA DEPARTMENT OF TRANSPORTATION (MDT) and the FHWA on April 12, 2001. A Copy of its Preliminary Field Review Report (1/24/06) is attached. This proposed action also qualifies as a CE under ARM 18.2.261 (Sections **75-1-103** and **75-1-201, MCA**).

The following form provides the documentation required to demonstrate that all of the conditions are satisfied to qualify for a Programmatic Categorical Exclusion Approval (PCE) as initially agreed by the (former) MONTANA DEPARTMENT OF HIGHWAYS (MDOH) and the FHWA on December 6, 1989. (Note: An "X" in the "N/A" column is "Not Applicable" to, while one in the "UNK" column is "Unknown" at the present time for this proposed project.)

NOTE: A response in a box will require additional documentation for a Categorical Exclusion request in accordance with 23 CFR 771.117(d).

	YES	NO	N/A	UNK
1. This proposed project would have (a) significant environmental impact(s) as-defined under <u>23 CFR 771.117(a)</u> .	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. This proposed project involves (an) unusual circumstance(s) as described under <u>23 CFR 771.117(b)</u> .	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. This proposed project involves one (or more) of the following situations where:				
A. Right-of-Way, easements, and/or construction permits would be required.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1. The context or degree of the Right-of-Way action would have (a) substantial social, economic, or environmental effect(s).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. There is a high rate of residential growth in this proposed project's area.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. There is a high rate of commercial growth in this proposed project's area.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Work would be on and/or within approximately 1.6 kilometers (1± mile) of an Indian Reservation.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	YES	NO	N/A	UNK
5. There are parks, recreational, or other properties acquired/improved under <i>Section 6(f)</i> of the <i>1965 National Land & Water Conservation Fund Act (16 USC 460L, et seq.)</i> on or adjacent to proposed the project area.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The use of such <i>Section 6(f)</i> sites would be documented and compensated with the appropriate agencies. (e.g.: MDFWP, local entities, etc.).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Are there any sites either on, or eligible for the National Register of Historic Places with concurrence in determination of eligibility or effect under <i>Section 106</i> of the <i>National Historic Preservation Act (16 USC 470, et seq.)</i> by the State Historic Preservation Office (SHPO), which would be affected by this proposed project.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. There are parks, recreation sites, school grounds, wildlife refuges, historic sites, historic bridges, or irrigation that might be considered under <i>Section 4(f)</i> of the <i>1966 US DEPARTMENT OF TRANSPORTATION Act (49 USC 303)</i> on or adjacent to the project area.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
a. "Nationwide" Programmatic <i>Section 4(f)</i> Evaluation forms for these sites are attached.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. This proposed project requires a full (i.e.: DRAFT & FINAL) <i>Section 4(f)</i> Evaluation.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. The activity would involve work in a streambed, wetland, and/or other waterbody(ies) considered as "waters of the United States" or similar (e.g.: "state waters").	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1. Conditions set forth in <i>Section 10</i> of the <i>Rivers and Harbors Act (33 USC 403)</i> and/or <i>Section 404</i> under <i>33 CFR Parts 320-330</i> of the <i>Clean Water Act (33 USC 1251-1376)</i> would be met.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Impacts in wetlands, including but not limited to those referenced under Executive Order (E.O.) #11990, and their proposed mitigation would be coordinated with the US Army Corps of Engineers and other Resource Agencies (Federal, State and Tribal) as required for permitting	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. A 124SPA Stream Protection Authorization would be obtained from the MDFWP?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. There is a delineated floodplain in the proposed project area under FEMA's Floodplain Management criteria.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The water surface at the 100-year flood limit elevation would exceed floodplain management criteria due to an encroachment by the proposed project.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Tribal Water Permit would be required.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Work would be required in, across, and/or adjacent to a river which is a component of, or proposed for inclusion in Montana's Wild and/or Scenic Rivers system as published by the US Department of Agriculture, or the US Department of the Interior.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	<u>YES</u>	<u>NO</u>	<u>N/A</u>	<u>UNK</u>
The designated National Wild & Scenic River systems in Montana are:				
a. Middle Fork of the Flathead River (headwaters to South Fork confluence).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. North Fork of the Flathead River (Canadian Border to Middle Fork confluence).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. South Fork of the Flathead River (headwaters to Hungry Horse Reservoir).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Missouri River (Fort Benton to Charles M. Russell National Wildlife Refuge).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
In accordance with <i>Section 7 of the Wild and Scenic Rivers Act (16 USC 1271 – 1287)</i> , this work would be coordinated and documented with either the Flathead National Forest (Flathead River), or US Bureau of Land Management (Missouri River).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
C. This is a "Type I" action as defined under <u>23 CFR 772.5(h)</u> , which typically consists of highway construction on a new location or the physical alteration of an existing route which substantially changes its horizontal or vertical alignments or increases the number of through-traffic lanes.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1. If yes, are there potential noise impacts?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. A Noise Analysis would be completed.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. There would be compliance with the provisions of both <u>23 CFR 772</u> for FHWA's Noise Impact analyses and MDT's Noise Policy.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
D. There would be substantial changes in access control involved with this proposed project.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If yes, would they result in extensive economic and/or social impacts on the affected locations?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
E. The use of a temporary road, detour, or ramp closure having the following conditions when the action(s) associated with such facilities:				
1. Provisions would be made for access by local traffic, and be posted for same.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Adverse effects to through-traffic dependant businesses would be avoided or minimized.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Interference to local events(e.g.: festivals) would be minimized to all possible extent.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Substantial controversy associated with this pending action would be avoided.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
F. Hazardous wastes /substances, as defined by the US Environmental Protection Agency (EPA) and/or the Montana Department of Environmental Quality (MDEQ), and/or (a) listed "Superfund" (under CERCLA or CECRA) site(s) are currently on and/or adjacent to this proposed project.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	YES	NO	N/A	UNK
All reasonable measures would be taken to avoid and/or minimize substantial impacts from same.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
G. The Montana Pollutant Discharge Elimination System's conditions (<u>ARM 16.20.1314</u>), including temporary erosion control features for construction would be met.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H. Permanent desirable vegetation with an approved seeding mixture would be established on exposed areas.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
I. Documentation of an "invasive species" review to comply with both EO #13112 and the <i>County Noxious Weed Control Act</i> (7-22-21, MCA), including directions as specified by the county(ies) wherein its intended work would be done.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J. There are "Prime" or "Prime if Irrigated" Farmlands designated by the Natural Resources Conservation Service on or adjacent to the proposed project area.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If the proposed work would affect Important Farmlands, then an AD-1006 Farmland Conversion Impact Rating form would be completed in accordance with the <i>Farmland Protection Policy Act</i> (7 USC 4201, et seq.).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
K. Features for the <i>Americans with Disabilities Act</i> (PL 101-336) compliance would be included.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
L. A written Public Involvement Plan, would be completed in accordance with MDT's Public Involvement Handbook.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. This proposed project complies with the <i>Clean Air Act's Section 176(c)</i> (42 USC 7521(a)), as amended) under the provisions of <u>40 CFR 81.327</u> as it's either in a Montana air quality:				
A. "Unclassifiable"/attainment area. This proposed project is <u>not</u> covered under the EPA's September 15, 1997 Final Rule on air quality conformity.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
and/or				
B. "Nonattainment" area. However, this type of proposed project is either exempted from the conformity determination requirements (under EPA's September 15, 1997 Final Rule), or a conformity determination would be documented in coordination with the responsible agencies: (Metropolitan Planning Organizations, MDEQ's Air Quality Division, etc.).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
C. Is this proposed project in a "Class I Air Shed" (Indian Reservations) under <u>40 CFR 52.1382(c)(3)</u> ?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Federally listed Threatened or Endangered (T/E) Species:				
A. There are recorded occurrences, and/or critical habitat in this proposed project's vicinity.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. Would this proposed project result in a "jeopardy" opinion (under <u>50 CFR 402</u>) from the Fish & Wildlife Service on any Federally listed T/E Species?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

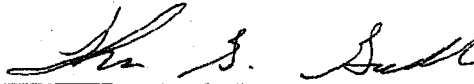
Michael Duman
Page 5
June 5, 2007


2003-SAFETY IMPVT-S WHITEFISH
STPHS 292-1(6)7
CN 5878000

The proposed project would not induce significant land use changes, nor promote unplanned growth. There would be no significant effects on access to adjacent property, nor to present traffic patterns.

This proposed project would not create disproportionately high and/or adverse impacts on the health or environment of minority and/or low-income populations (EO #12898). It also complies with the provisions of *Title VI* of the *Civil Rights Act* of 1964 (**42 USC 2000d**) under the FHWA's regulations (**23 CFR 200**).

In accordance with the provisions of **23 CFR 771.117(a)**, this pending action would not cause any significant individual, secondary, or cumulative environmental impacts. Therefore, the FHWA's concurrence is requested that this proposed project is properly classified as a Categorical Exclusion.

 Date: 6/5/07
Thomas G. Gocksch P.E.
Project Development Engineer
MDT Environmental Services Bureau

 Date: 6/05/07
Concur _____
Tom Hansen, P.E. - Engineering Section Supervisor
Environmental Services Bureau

 Date: 6/8/07
Concur _____
Federal Highway Administration

TLH:tgg S:\PROJECTS\MISSOULA\5878\5878ENCED001.DOC

Attachments

cc: Dwane Kailey, P.E. - District Administrator - Missoula District
Paul R. Ferry, P.E. - Highway Engineer
John H. Horton - MDT Right-of-Way Bureau Chief
Suzy Price - MDT Contract Plans Section Supervisor
David W. Jensen, Supervisor - MDT Fiscal Programming Section
Dan Smith, Acting Chief - Environmental Services Bureau
Tom Gocksch P.E. - Environmental Services Bureau
Susan Kilcrease - Missoula District Office
Flathead County
Environmental Quality Council

MDT attempts to provide accommodation for any known disability that may interfere with a person participating in any service, program or activity of the Dept. Alternative accessible formats of this information will be provided upon request. For further information, call 406-444-7228 or TTY (800-335-7592), or call Montana Relay at 711.



October 19, 2012

Gene Kaufman
Operations Engineer
Federal Highway Administration
585 Shepard Way
Helena, MT 59601-9785

Subject: Recertify environmental documentation
IM 90-3(111)150
Drummond – E & W (I-90)
Control Number: 7602000

Dear Gene,

Environmental Services has reviewed the above proposed project's impacts and has determined that this proposed project still qualifies as a Categorical Exclusion under the provisions of 23 CFR 771.129(c). The original Statewide Programmatic Categorical Exclusion Checklist was approved and sent to FHWA on December 8, 2011 and should be in your files. This proposed action also continues to qualify as a categorical exclusion under the provisions of ARM 18.2.261 (Sections 75-1-103 and 75-1-201, M.C.A.). This determination is based on the following information.

The revised Scope-of-Work for the proposed project has been reviewed. The Scope-of-Work was amended to add the following work:

- A 0.20' mill/fill of a 14' x 100' plant mix strip at the approach to and departure from the concrete approach slabs adjacent to the scale pit at both eastbound and westbound sites.
- Structural repair of the concrete walls of the eastbound scale pit.

This additional work is necessary to keep the scale sites serviceable after the upgraded electronics, signing and lighting are installed. As a result of this change, we have reviewed the project reports and found that in accordance with 23 CFR 771.117(a), this action will still neither individually nor cumulatively, have any significant environmental impacts.

In accordance with the Federal Highway Administration's (FHWA) concurrence letter of April 15, 1999, this notification documents that this proposed action is still properly classified as a CE under the provisions of 23 CFR 771.117(d).

October 19, 2012
Gene Kaufman
Page 2

Drummond - E & W
IM 90-3(111)150
CN 7602000

Sincerely,



Heidy Bruner, P.E.
Engineering Section Supervisor
Environmental Services Bureau

Copy (w/o attach.):

Ed Toavs, P.E.	Missoula District Administrator
Paul Ferry, P.E.	Highway Engineer
Kent Barnes, P.E.	Bridge Engineer
Tom S. Martin, P.E.	Environmental Services Bureau Chief
Suzy Price	Contract Plans Bureau Chief
Nicole Pallister	Fiscal Programming Section Supervisor
Tom Erving	Fiscal Programming Section
Robert Stapley	Right-of-Way Bureau Chief
Susan Kilcrease	Environmental Services Bureau
File	Environmental Services Bureau
Montana Legislative Branch Environmental Quality Council (EQC)	



Montana Department of
ENVIRONMENTAL QUALITY

Brian Schweitzer, Governor

P. O. Box 200901

Helena, MT 59620-0901

(406) 444-2544

Website: www.deq.mt.gov

PUBLIC NOTICE NO. MT-12-45

November 13, 2012

PURPOSE OF PUBLIC NOTICE

The purpose of this notice is to state the Department's intention to issue a General Permit as described in this notice. This permit is issued by the Department under the authority of 75-5-402, Montana Code Annotated (MCA); the Administrative Rules of Montana (ARM) 17.30.1301 *et seq.*, Montana Pollutant Discharge Elimination System (MPDES); and Sections 402 and 303 of the Federal Clean Water Act. The Water Protection Bureau has prepared a draft permit for the facility listed below. Copies of the draft permit, fact sheet, and environmental assessment are available upon request from the Water Protection Bureau or on the Department's website www.deq.mt.gov.

APPLICANT INFORMATION

APPLICANT: Petroleum Cleanup Sites

FACILITY NAME: Various – See Fact Sheet

FACILITY LOCATION: Various – See Fact Sheet

RECEIVING WATER: State Waters

PERMIT NUMBER: MTG790000

This is a reissuance of the Montana Pollutant Discharge Elimination System (MPDES) Petroleum Cleanup General Permit. The permit authorizes discharges of treated wastewater from petroleum cleanup sites in Montana. Petroleum cleanup sites typically discharge treated wastewater from petroleum-related corrective actions that may include surface and/or groundwater cleanup activities; petroleum remediation activities; petroleum spills; or other related petroleum cleanup activities. Wastewater treatment usually consists of oil/water separation, air stripping and/or carbon adsorption. Appropriate effluent limits and monitoring requirements are included in the permit.

On September 21, 2000, a U.S. District Judge issued an order stating that until all necessary total maximum daily loads (TMDLs) under Section 303(d) of the Clean Water Act are established for a particular water quality limited segment, the State is not to issue any new permits or increase permitted discharges under the MPDES program. The order was issued in the lawsuit *Friends of the Wild Swan v. U.S. EPA, et al.*, CV 97-35-M-DWM, District of

Montana, Missoula Division. The DEQ finds that the issuance of the proposed permit does not conflict with the order because if the receiving water at a petroleum cleanup site is on the 303(d) list for any pollutant of concern in the General Permit, then an individual permit will be required to discharge and meet the TMDLs for the specific receiving water.

PUBLIC COMMENT

Public comments are invited **ANYTIME PRIOR TO CLOSE OF BUSINESS December 13, 2012.** Comments may be directed to the DEQ Permitting & Compliance Division, Water Protection Bureau, PO Box 200901, Helena, MT 59620. All comments received or postmarked **PRIOR TO CLOSE OF BUSINESS December 13, 2012** will be considered in the formulation of final determinations to be imposed on the permits. If you wish to comment electronically, you may e-mail David Dunbar or Barb Sharpe at WPBPublicNotices@mt.gov.

The Department will respond to all substantive comments and issue a final decision within sixty days of this notice or as soon as possible thereafter. Additional information may be obtained upon request by calling (406) 444-3080 or by writing to the aforementioned address. The complete administrative record, including permit application and other pertinent information, is maintained at the Water Protection Bureau office in Helena and is available for review during business hours.

PUBLIC NOTICE NO. MT-12-45
November 13, 2012



Montana Department of
ENVIRONMENTAL QUALITY

Brian Schweitzer, Governor

P. O. Box 200901

Helena, MT 59620-0901

(406) 444-2544

Website: www.deq.mt.gov

PUBLIC NOTICE NO. MT-12-52

November 13, 2012

PURPOSE OF PUBLIC NOTICE

The purpose of this notice is to state the Department's intention to issue a wastewater discharge permit to the facility listed in this notice. This permit is issued by the Department under the authority of 75-5-402, Montana Code Annotated (MCA); the Administrative Rules of Montana (ARM) 17.30.1301 *et seq.*, Montana Pollutant Discharge Elimination System (MPDES); and Sections 402 and 303 of the Federal Clean Water Act. The Water Protection Bureau has prepared a draft permit for the facility listed below. Copies of the draft permit, statement of basis, and environmental assessment are available upon request from the Water Protection Bureau or on the Department's website www.deq.mt.gov.

APPLICANT INFORMATION

APPLICANT: H & R Energy LLC
PO Box 244
Shelby, MT 59474

FACILITY NAME: Krause Lease

FACILITY LOCATION: T35N R3W S9; Lat. 48.79945N, Long. 111.99319W

RECEIVING WATER: Unnamed tributary of Alkali Flats Coulee

PERMIT NUMBER: MT0031747

The Krause Lease facility is owned by H & R Energy LLC and collects crude oil and associated formation fluids from three oil wells in the Kevin, Montana oil fields. Fluids first enter an oil/water separation tank at the facility site from which crude oil is piped into an on-site oil storage tank and water is sent through an open channel into a skimming pond and on into a settling/storage pond. Treatment of produced fluids consists of oil/water separation, skimming, and settling. From the settling/storage pond, produced water enters an approximately 250-foot-long man-made open channel from which it discharges into an unnamed, intermittent tributary and flows approximately a half-mile to reach Alkali Flat Coulee. Influent and effluent volume measurements are made through readings of tank volume differences in the on-site tanks.

No mixing zone is being granted as the receiving water is an intermittent stream which will at times have no assimilative capacity. The discharge is not a new or increased source requiring

nonsignificance review. Effluent limits and monitoring requirements are proposed for oil & grease, total dissolved solids, fluorine, arsenic, copper, and selenium. Flow monitoring requirements are also proposed.

On September 21, 2000, a U.S. District Judge issued an order stating that until all necessary total maximum daily loads under Section 303(d) of the Clean Water Act are established for a particular water quality limited segment, the State is not to issue any new permits or increase permitted discharges under the MPDES program. The order was issued in the lawsuit *Friends of the Wild Swan v. U.S. EPA, et al.*, CA 97-35-M-DWM, District of Montana, Missoula Division. The DEQ finds that the issuance of this proposed permit does not conflict with the order because the receiving water was not on the state's 303(d) list of impaired water bodies any time and the discharge is not a new or increased source.

PUBLIC COMMENT

Public comments are invited ANYTIME PRIOR TO CLOSE OF BUSINESS December 13, 2012. Comments may be directed to the DEQ Permitting & Compliance Division, Water Protection Bureau, PO Box 200901, Helena, MT 59620. All comments received or postmarked PRIOR TO CLOSE OF BUSINESS December 13, 2012 will be considered in the formulation of final determinations to be imposed on the permits. If you wish to comment electronically, you may e-mail David Dunbar or Barb Sharpe at WPBPublicNotices@mt.gov.

During the public comment period provided by the notice, the Department will accept requests for a public hearing. A request for a public hearing must be in writing and must state the nature of the issue proposed to be raised in the hearing (ARM 17.30.1373).

The Department will respond to all substantive comments and issue a final decision within sixty days of this notice or as soon as possible thereafter. Additional information may be obtained upon request by calling (406) 444-3080 or by writing to the aforementioned address. The complete administrative record, including permit application and other pertinent information, is maintained at the Water Protection Bureau office in Helena and is available for review during business hours.

PUBLIC NOTICE NO. MT-12-52
November 13, 2012

**COMBINED NOTICE
FINDING OF NO SIGNIFICANT IMPACT and
NOTICE TO PUBLIC OF REQUEST FOR RELEASE OF FUNDS
(FONSI/NOI/RROF)**

November 21, 2012

Pondera County
20 4th Avenue SW
Conrad, MT 59425
406-271-4010

TO ALL INTERESTED AGENCIES, GROUPS AND PERSONS:

On or before December 11, 2012 the above-named Pondera County will request the Montana Department of Commerce (DOC) to release Community Development Block Grant (CDBG) funds provided under Title I of the Housing and Community Development Act of 1974, as amended (PL 93-383) for the following project:

Brady Water System Improvements
CDBG Project Title or Name

The project consists of replacing water mains, fire hydrants, water valves and construction of a 125,000 gallon elevated water storage tank.
Purpose or Nature of the CDBG Project

The project is proposed for the Community of Brady, in Pondera County, Montana

Finding of No Significant Impact

It has been determined that such request for release of funds will not constitute an action significantly affecting the quality of the human environment and accordingly the above named Pondera County has decided not to prepare an Environmental Impact Statement under the National Environmental Policy Act of 1969 (PL 91-190).

The reasons for the decision not to prepare such Statement are as follows:

- The proposed project has minimal impact on the human and natural environment.

An Environmental Review Record documenting review of all project activities in respect to impacts on the environment has been made by the above-named Pondera County. This Environmental Review Record is on file at the above address and is available for public examination and copying upon request between the hours of 8:00 a.m and 5:00 p.m., Monday through Friday.

No further environmental review of such project is proposed to be conducted prior to the request for release of CDBG project funds.

Public Comments on Findings

All interested agencies, groups and persons disagreeing with this decision are invited to submit written comments for consideration by Pondera County to the Pondera County Commissioner, Mr. Joseph Christiaens on or before December 6, 2012. All such comments so received will be considered and Pondera County will not request release of funds or take any administrative action on the project prior to the date specified in the preceding sentence.

Release of Funds

The County of Pondera will undertake the project described above with CDBG funds provided by DOC under Title I of the Housing and Community Development Act of 1974, as amended. Pondera County is certifying to DOC that Pondera County Commissioner, Mr. Joseph Christiaens, in his official capacity as comissioner consents to accept the jurisdiction of the Federal courts if an action is brought to enforce responsibilities in relation to environmental reviews, decision-making, and action; and that these responsibilities have been satisfied. The legal effect on the certification is that upon its approval, Pondera County may use the CDBG funds and DOC will have satisfied its responsibilities under the National Environmental Policy Act of 1969.

Objections to State Release of Funds

The Department of Commerce will accept an objection to its approval of the release of funds and acceptance of the certification only if it is on one of the following bases:

- (a) that the certification was not in fact executed by the chief executive officer or other officer approved by the Department of Commerce;
- (b) that the applicant's environmental review record for the project indicates omission of a required decision, finding, or step applicable to the project in the environmental review process;
- (c) the grant recipient has committed funds or incurred costs not authorized by 24 CFR Part 58 before approval of a release of funds by DOC; or
- (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental design.

Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58) and may be addressed to: Department of Commerce, Community Development Division, 301 S. Park Avenue, P.O. Box 200523, Helena, Montana 59620.

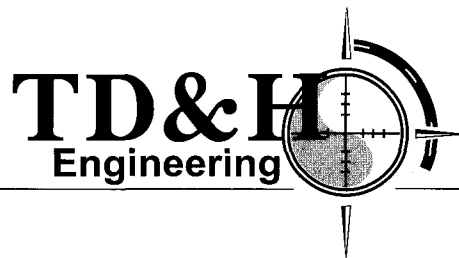
Objections to the release of funds on bases other than those stated above will not be considered by DOC. No objection received after December 26, 2012 will be considered by DOC.

Pondera County Commissioner, Mr. Joseph Christiaens

Name of Environmental Certifying Officer

November 21, 2012

20 4th Avenue SW
Conrad, Montana 59425



November 15, 2012

Montana Environmental Quality Council
P.O. Box 201704
Helena, MT 59620 - 1704

RE: Brady Water System Improvements FONSI

Thomas, Dean & Hoskins has prepared an Environmental Assessment (EA) for the Community of Brady for their proposed water system improvements. As part of the project, a *Combined Notice Finding of No Significant Impact and Notice to Public of Request for Release of Funds* (FONSI/NOI/RROF) will be advertised in the Conrad Independent Observer on November 21, 2012 requesting public comment.

The proposed improvements include replacing the existing water mains with new mains. These mains will be installed in the existing alignment or immediately adjacent to the existing pipe. Included are new valves, fire hydrants and construction of a 125,000 gallon elevated water storage tank. The water storage tank will be constructed on the northeast side of the community on land owned by the Dutton-Brady School District.

A copy of the EA is available at the office of Pondera County Commissioner, Joseph Christiaens as well at our office for your review. Please contact me if you have any questions.

Sincerely,

THOMAS, DEAN & HOSKINS, INC.


Debi A. Pace, Grant Administrator

J:\2009\09-224 Brady Water Design\DOCUMENTS\GRANT ADMIN\CDBG\FONSI Letters\EQC.doc

**COMBINED NOTICE
FINDING OF NO SIGNIFICANT IMPACT and
NOTICE TO PUBLIC OF REQUEST FOR RELEASE OF FUNDS
(FONSI/NOI/RROF)**

November 21, 2012

Pondera County
20 4th Avenue SW
Conrad, MT 59425
406-271-4010

TO ALL INTERESTED AGENCIES, GROUPS AND PERSONS:

On or before December 11, 2012 the above-named Pondera County will request the Montana Department of Commerce (DOC) to release Community Development Block Grant (CDBG) funds provided under Title I of the Housing and Community Development Act of 1974, as amended (PL 93-383) for the following project:

Brady Water System Improvements
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The project is proposed for the Community of Brady, in Pondera County, Montana

Finding of No Significant Impact

It has been determined that such request for release of funds will not constitute an action significantly affecting the quality of the human environment and accordingly the above named Pondera County has decided not to prepare an Environmental Impact Statement under the National Environmental Policy Act of 1969 (PL 91-190).

The reasons for the decision not to prepare such Statement are as follows:

- The proposed project has minimal impact on the human and natural environment.

An Environmental Review Record documenting review of all project activities in respect to impacts on the environment has been made by the above-named Pondera County. This Environmental Review Record is on file at the above address and is available for public examination and copying upon request between the hours of 8:00 a.m and 5:00 p.m., Monday through Friday.

No further environmental review of such project is proposed to be conducted prior to the request for release of CDBG project funds.

Public Comments on Findings

All interested agencies, groups and persons disagreeing with this decision are invited to submit written comments for consideration by Pondera County to the Pondera County Commissioner, Mr. Joseph Christiaens on or before December 6, 2012. All such comments so received will be considered and Pondera County will not request release of funds or take any administrative action on the project prior to the date specified in the preceding sentence.

Release of Funds

The County of Pondera will undertake the project described above with CDBG funds provided by DOC under Title I of the Housing and Community Development Act of 1974, as amended. Pondera County is certifying to DOC that Pondera County Commissioner, Mr. Joseph Christiaens, in his official capacity as comissioner consents to accept the jurisdiction of the Federal courts if an action is brought to enforce responsibilities in relation to environmental reviews, decision-making, and action; and that these responsibilities have been satisfied. The legal effect on the certification is that upon its approval, Pondera County may use the CDBG funds and DOC will have satisfied its responsibilities under the National Environmental Policy Act of 1969.

Objections to State Release of Funds

The Department of Commerce will accept an objection to its approval of the release of funds and acceptance of the certification only if it is on one of the following bases:

- (a) that the certification was not in fact executed by the chief executive officer or other officer approved by the Department of Commerce;
- (b) that the applicant's environmental review record for the project indicates omission of a required decision, finding, or step applicable to the project in the environmental review process;
- (c) the grant recipient has committed funds or incurred costs not authorized by 24 CFR Part 58 before approval of a release of funds by DOC; or
- (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental design.

Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58) and may be addressed to: Department of Commerce, Community Development Division, 301 S. Park Avenue, P.O. Box 200523, Helena, Montana 59620.

Objections to the release of funds on bases other than those stated above will not be considered by DOC. No objection received after December 26, 2012 will be considered by DOC.

Pondera County Commissioner, Mr. Joseph Christiaens

Name of Environmental Certifying Officer

November 21, 2012

20 4th Avenue SW
Conrad, Montana 59425

